

ASSEMBLY BILL

No. 581

Introduced by Assembly Member Klehs

February 16, 2005

An act to amend Section 1964 of the Labor Code, relating to firefighters.

LEGISLATIVE COUNSEL'S DIGEST

AB 581, as introduced, Klehs. Firefighters.

Existing law authorizes the governing body of any regularly organized volunteer fire department to adopt regulations governing the removal of volunteer firefighters from the volunteer fire department. Existing law provides that the governing body has the discretion, after soliciting comments from the membership of the volunteer fire department, to adopt reasonable regulations that may include specified elements.

This bill would make technical, nonsubstantive changes to these provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1964 of the Labor Code is amended to
- 2 read:
- 3 1964. (a) The governing body of any regularly organized
- 4 volunteer fire department may, but shall not be required to, adopt
- 5 regulations governing the removal of volunteer firefighters from
- 6 the volunteer fire department.

1 (b) ~~In the event that~~ If the governing body chooses to adopt
2 these regulations, it ~~shall have the discretion~~ may, after soliciting
3 comments from the membership of the volunteer fire department,
4 ~~to adopt any reasonable regulations which~~ that may, but need
5 not, include some or all of the following elements, in addition to
6 other provisions:

7 (1) Members of the department shall not be removed from
8 membership, except for incompetence, misconduct, or failure to
9 comply with the rules and regulations of the department.
10 Removals, except for absenteeism at fires or meetings, shall be
11 made only after a hearing with due notice, with stated charges,
12 and with the right of the member to a review.

13 (2) The charges shall be in writing and may be made by the
14 governing body. The burden of proving incompetency or
15 misconduct shall be on the person alleging it.

16 (3) Hearings on the charges shall be held by the officer or
17 body having the power to remove the person, or by a deputy or
18 employee of the officer or body designated in writing ~~for that~~
19 ~~purpose~~.

20 In case a deputy or other employee is so designated, he or she
21 shall for the purpose of the hearing be vested with all the powers
22 of the officer or body; and shall make a record of the hearing,
23 which shall be referred to the officer or body for review with his
24 or her recommendations.

25 (4) The notice of the hearing shall specify the time and place
26 of the hearing and state the body or person before whom the
27 hearing will be held. Notice and a copy of the charges shall be
28 served personally upon the accused member at least 10 days but
29 not more than 30 days before the date of the hearing.

30 (5) A stenographer may be employed for the purpose of taking
31 testimony at the hearing.

32 (6) The officer or body having the power to remove the person
33 may suspend the person after charges are filed and pending
34 disposition of the charges, and after the hearing may remove the
35 person or may suspend him or her for a period of time not to
36 exceed one year.

37 (7) Volunteer firefighters shall serve a probationary period of
38 a length to be specified by the governing board, not to exceed
39 one year. A probationary volunteer firefighter may be removed

1 from membership without specification of cause. The decision to
2 remove a probationer shall not require notice or a hearing.

3 (c) The requirement of subdivision (b) to solicit comments
4 from the membership shall not be deemed to create a duty to
5 meet and confer with the membership.

6 (d) In the event that a governing body of a regularly organized
7 volunteer fire department adopts regulations governing removal
8 of volunteer firefighters, the regulations shall not be interpreted
9 as creating a property right in the volunteer firefighter job or
10 position.

11 (e) When regulations have been adopted; and where the
12 regulations provide for a hearing and decision by the governing
13 body, a volunteer firefighter may commence a proceeding in
14 accordance with ~~the provisions of~~ Section 1094.5 of the Code of
15 Civil Procedure to set aside the decision of the governing body
16 on the ground that the decision is not supported by substantial
17 evidence. The court shall not employ its independent judgment in
18 reviewing the evidence. The proceeding shall be commenced
19 within 90 days from the date that the governing body renders its
20 decision. This remedy shall be the exclusive method for review
21 of the governing body's decision.